

REMARKS/ARGUMENTS

Claims 1-27 remain pending in the application. Applicant, by this paper, amends claims 1, 13, 19, and 27 and requests reconsideration and allowance of all pending claims. No new matter is added by amendment.

**DISCUSSION OF REJECTION UNDER 35 U.S.C. §101**

Claim 27 was rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter.

The preamble of claim 27 is amended to read: "A computer-readable medium encoded with software code for identifying transmitters in a wireless communication system."

As expressly stated by the Examiner, "a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." *Office Action*, at page 2, last paragraph.

Thus, claim 27 satisfies the requirements of computer-readable medium encoded with data structures (software code) that define structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized. Therefore, claim 27 is believed to be directed to statutory subject matter, and Applicant respectfully requests withdrawal of the rejection under section 101.

**DISCUSSION OF REJECTION UNDER 35 U.S.C. §112**

Claims 1-27 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being incomplete for omitting essential steps. In particular, the Examiner contends that each of independent claims 1, 13, 19, and 27 omit essential steps.

Although Applicant respectfully disagrees with the Examiner's conclusions, Applicant amends each of claims 1, 13, 19, and 27 to include those steps that the Examiner alleges is essential to the claim.

In particular, **claim 1** is amended to include the feature of "determining a measured power for the received signal." Support for the claimed feature can be found throughout Applicant's Specification, as filed. As an example, support may be found at paragraphs [1011], [1042], [1086], and [1101].

The rejection of claim 1 is believed to be overcome with this amendment. There are no other rejections of claim 1. Thus, claim 1 is believed to be allowable. Claims 2-12 are also believed to be allowable based on their dependence from claim 1.

**Claim 13** is amended to include the feature of “determining measured power for each of the plurality of received signals” as well as “determining an identified transmitter” and “determining measured power of the identified transmitter.” Support for the claimed features can be found, for example, at paragraphs [1056], [1061], [1086], and [1101].

**Claim 19** is amended to include the feature of “means for determining a measured power for each of the plurality of received signals.” Support for the claimed feature may be found in Applicant’s Specification, as filed, for example, at paragraphs [1086], and [1101].

**Claim 27** is amended to include the feature of “code for obtaining measured power for each received signal.” Support for the claimed feature may be found in Applicant’s Specification, as filed, for example, at paragraphs [1086], [1101], and [1106]-[1107].

The amendments are believed to overcome the rejections under 35 U.S.C. §112, second paragraph, to claims 13, 19, and 27. Applicant respectfully requests withdrawal of the rejections in light of the claim amendments.

**Claims 14-18, and 20-26** are believed to overcome the rejections based on 35 U.S.C. §112 based on their dependence from one of claims 13 or 19. Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. §112.

#### **DISCUSSION OF REJECTION UNDER 35 U.S.C. §103**

Claims 13-16, 19-20, 24, and 26-27 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,643,521 to Bourgoin et al. (hereinafter Bourgoin) in view of U.S. Patent No. 5,873,040 to Dunn et al. (hereinafter Dunn).

Applicant respectfully traverses the rejections of the claims. The combination of Bourgoin with Dunn fails to render the claims unpatentable and the Examiner fails to establish a prima facie case of obviousness because the references, whether alone or in combination, fail to teach or suggest every claimed feature.

**Claim 13** recites a method for determining transmitters in a wireless communication system. The method includes “determining a list of candidate transmitters for the received signal.” The method further includes “determining the transmitter for the received signal based on predicted powers for the candidate transmitters, the predicted power for the identified transmitter, measured power of the received signal, and measured power for the

identified transmitter.” Neither Bourgoïn or Dunn teach or suggest either of these claimed features, and thus, the combination of Bourgoïn with Dunn also fails to teach or suggest the claimed features.

The Examiner concedes that Bourgoïn fails to describe “determining a list of candidate transmitters for the received signal.” *See, Office Action*, at page 5. Instead, the Examiner contends that Bourgoïn describes determining a candidate transmitter for the received signal. *See, id.* However, Bourgoïn does not refer to a “candidate transmitter” but instead refers to a “candidate user.” Moreover, the “candidate user” referred to in Bourgoïn is expressly defined to refer to an additional user that seeks to connect with a base station. *See, Bourgoïn*, at Col. 1, ll. 26-28. In Bourgoïn, the candidate user has not yet been granted access to the wireless system.

Bourgoïn is not directed to determining a transmitter of a received signal from a plurality of received signals, wherein the plurality of received signals are received by a user terminal, as claimed. In stark contrast, Bourgoïn is directed at determining the impact of admitting a candidate user by a base station, taking into account the increases in the individual power levels of all users served by the base station. *Bourgoïn*, Abstract. Bourgoïn describes performing the described process because “[m]aintaining the total power level received [at the base station] from all active users within certain limits is essential to achieving good network performance by limiting the level of interference.” *Id.*, at Col. 1, ll. 15-18.

Bourgoïn describes receiving at a base station, a connection request from a candidate user. *Id.*, at Col. 3, ll. 30-31. The base station determines whether to admit the requesting mobile station by predicting the total power received by the base station if the candidate user were to become an active user. *Id.*, at Col. 3, ll. 32-35. Therefore, Bourgoïn expressly relates to a base station determining whether to admit or deny a mobile station request to become an active user within the base station.

Further, Bourgoïn fails to teach or suggest “obtaining a plurality of received signals for a plurality of transmitters, wherein the plurality of received signals are received by a user terminal,” as claimed. Indeed, Bourgoïn could not be modified to operate on signals received at a user terminal because a user terminal does not regulate which terminals are admitted to a base station. Modifying Bourgoïn to operate at a user terminal or on signals received by a user terminal would render Bourgoïn inoperable for its intended purpose.

Dunn fails to cure the deficiencies in Bourgoïn, and the combination of Dunn with Bourgoïn fails to teach or suggest every claimed feature. Dunn, like Bourgoïn, fails to teach or suggest obtaining a plurality of received signals that are received by a *user terminal*. Instead, Dunn describes taking signal strength measurements at *base stations*. See, *Dunn*, at Col. 2, ll. 15-18. Similarly, Dunn, like Bourgoïn, fails to teach or suggest determining a list of a plurality of candidate transmitters for each of a plurality of received signals.

Instead, Dunn describes base stations monitoring mobile unit transmissions for identity signals embedded within the mobile unit transmissions. See, *Dunn*, at Col. 2, ll. 44-47. Indeed, Dunn describes measuring the signal strength of the mobile unit ID signals. *Id.* Thus, the base stations described in Dunn do not determine a list of candidate transmitters, because each base station is able to receive the mobile unit ID, which uniquely identifies the transmitting mobile unit.

Thus, Dunn also fails to teach or suggest the claimed feature of “identifying the transmitter for the received signal based on predicted powers for the candidate transmitters and measured power for the received signal.” Instead, Dunn expressly describes utilizing the mobile unit ID embedded within the mobile unit transmissions to identify the transmitting mobile unit. See, *Dunn*, at Col. 2, ll. 44-47 and Col. 6, ll. 44-51.

Thus, the combination of Bourgoïn with Dunn fails to teach or suggest every claimed feature. Bourgoïn and Dunn both fail to teach operating on a plurality of received signals received at a user terminal. Further, both Bourgoïn and Dunn fail to teach or suggest determining a list of a plurality of candidate transmitters for each received signal. Finally, both Bourgoïn fail to teach or suggest “identifying the transmitter for the received signal based on predicted powers for the candidate transmitters and measured power for the received signal.”

Therefore, Bourgoïn and Dunn, whether alone or in combination, fail to teach or suggest the several of the same features from claim 13. Because the two references fail to teach or suggest the same claimed features, the combination of the two references also fails to teach or suggest the features absent from each reference alone. Applicant respectfully requests reconsideration and allowance of claim 13.

**Claim 19** recites an apparatus that can identify transmitters in a wireless communication device. Claim 19 includes several features discussed above in relation to claim 13 that distinguish over the cited references. In particular, Claim 19 includes the

features of “means for obtaining a plurality of received signals for a plurality of transmitters, wherein the plurality of received signals are received by a user terminal,” “means for determining a plurality of lists of candidate transmitters for the plurality of received signals, one candidate list for each received signal,” and “means for identifying the transmitter for each received signal based on measured power for the received signal and predicted powers for the candidate transmitters in the list determined for the received signal.”

The cited references, Bourgoïn and Dunn, whether alone or in combination, fail to teach or suggest at least these claimed features. The argument supporting Applicant’s conclusion is provided above in relation to the rejection of Claim 13. Applicant respectfully requests reconsideration and allowance of claim 19.

**Claim 27** includes similar features to those discussed above in relation to claims 13 and 19 and is believed to be allowable over Bourgoïn and Dunn, whether alone or in combination, for at least the reasons presented above in relation to claims 13 and 19. Applicant respectfully requests reconsideration and allowance of claim 27.

#### **DISCUSSION OF DEPENDENT CLAIMS**

**Claims 14-18, and 20-26** depend, either directly or indirectly, from one of claims 13 or 19 and are believed to be allowable at least for the reason that they depend from an allowable base claim. Each of the dependent claims may have individual bases for patentability beyond those discussed above in relation to the independent claims. It is not necessary to discuss the patentable distinctions of each dependent claim because of the allowability of the base claims from which they depend.

#### **CONCLUSION**

Applicant believes that all claims pending in the application are allowable. Applicant therefore respectfully requests that a timely Notice of Allowance be issued in this case.

Applicant petitions the Director of the United States Patent Office to extend the time for reply to the Office Action dated April 22, 2008 for one month and authorizes the charge as set forth in §1.17(a) to Deposit Account No. 17-0026. Applicant believes that the instant response is filed within the period for response provided in the Office Action of April 22, 2008 extended by one month as provided for under 37 CFR 1.136.

If there are any other fees due in connection with the filing of the response, please charge the fees to our Deposit Account No. 17-0026. If a fee is required for an extension of

**Docket No. 020292**

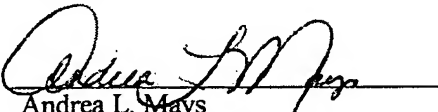
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time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned.

Respectfully submitted,

Dated: August 15, 2008

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